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HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (S) No. 3936 of 2007

PETITIONERS

1) Ratiya Ram son of Late Shri Budhan Ram, aged about 55 years, working as Pharash, Govt. Higher Secondary School, Sanna, Tah and Block Bagicha, Dist. Jashpur, CG. (appointed vide order dated 11-7-1994).

2) Sahdev Ram son of Late Shri Jhulan Ram, aged about 40 years, working as Agricultural Peon, Government Higher Secondary School, Sanna, Tah and Block Bagicha, Distt. Jashpur, CG. (appointed vide order dated 6-4-1989).

3) Ramjan Ram aged about 45 years, son of Late Matiya ram working as Chowkidar, Government High Secondary School, Sanna, Tahsil and Block Bagicha, Distt. Jashpur, CG. (appointed vide order dated 5-9-1989).

4) Nagendra Ram, aged about 35 years, son of late Shri Kadio Ram working as Rasoyeeya (cook), Pandit Motilal Nehru Boys Hostel Pandrapath Tah and Block Bagicha, Dist. Jashpur (CG) (appointed vide order dated 27-7-1991).

5) Prabal Sai son of Shri Telo Ram aged about 40 years, working as Rasoyeeya (cook), Pandit Motilal Nehru Boys Hostel, Tah and Block Bagicha, Dist. Jashpur, CG. (appointed vide order dated 27-7-2001).

Versus

RESPONDENTS

1) The State of Chhattisgarh, through Secretary, Department of School Education, Dau Kalyan Singh Bhawan, Raipur, CG.

2) The Collector (Adim Jati Kalyan Vibhag), Dist. Jashpur (the then Raigarh).

3) The Assistant Commissioner, Aadivasi Vikas Tribal Jashpur (the then Raigarh).

4) The Commissioner, Aadivasi Vikas Raipur, CG.

(Writ Petition under Article 226 of the Constitution of India)

SB: Hon'ble Mr. Justice Satish K. Agnihotri

Present: Shri Amit Kumar Sharma, counsel for the petitioner.
Smt. Anju Ahuja, Dy. Govt. Advocate for the State.

ORDER
(Passed on 11th July, 2007)

By this petition, the petitioners have challenged the validity of the order dated 4.10.1997 (Annexure P/4) passed by the Additional Collector, Raigarh, whereunder the grant of regular pay scales to the petitioners were withdrawn and the petitioners were paid thereafter daily wages as per Collector's rate.

2) The indisputable facts in nutshell, are that initially the petitioner no.1 was engaged on daily wages on the post of Pharash vide order dated 11-7-1994, the petitioner No.2 was engaged on daily wages on the post of Agricultural Peon, vide order dated 6-4-1989, the petitioner No.3 was engaged on the post of Chowkidar vide order dated 5-9-1989, the petitioner No.4 was engaged on the post of Rasoyeeya (Cook) vide order dated 27-7-1991 and the petitioner No.5 was engaged on the post of Rasoyeeya (cook) vide order dated 27-7-1991 and thereafter the petitioners were granted regular pay scale vide order dated 15-12-1992. The grant of regular pay scale was withdrawn by the impugned order dated 4-10-1997 (Annexure P/4).

3) Learned counsel appearing for the petitioners would contend that once a right of a particular pay scale has been granted to the petitioners in accordance with law, the same cannot be withdrawn, without affording an opportunity of hearing. The petitioners have acquired the right to the fixed monthly pay scale

as their services were regularized. Thus, the impugned order is bad and deserves to be quashed.

4) Learned counsel for the petitioners heavily relied on a judgment and order dated 18th January, 2006 passed by this Court in Writ Petition No.2125/2002 (Sant Kumar & others Vs. State of Chhattisgarh & others), wherein this Court while considering the identical issue of reducing the regular pay scale granted earlier, held that the order reducing the pay scale of an employee behind their back, without following any procedure known to law is punitive and visits with civil consequences. The same cannot be passed without giving concerned employee, an opportunity of hearing.

5) Learned counsel for the petitioners further submits that the respondents/State preferred a Special Leave Petition (Civil) No.17122/2006 (State of Chhattisgarh & others Vs. Sant Kumar & others) before the Hon'ble Supreme Court, challenging the order dated 18-1-2006 (supra), passed by this Court and the same has been dismissed by the Hon'ble Supreme Court vide order dated 9-10-2006 after condonation of delay.

6) Learned counsel appearing for the parties jointly submit that this case is squarely covered by the judgment and order dated 18-1-2006 passed in the case of Sant Kumar & others (supra). Thus, the impugned order dated 4-10-1997 (Annexure P/4) is bad in law, being punitive in nature and passed without affording an opportunity of hearing to the concerned employees (petitioners) for putting forward their cases.

7) Accordingly, the order dated 4-10-1997 (Annexure P/4) is quashed. The petitioners are entitled to regular pay scales from the date, the same have been withdrawn by the impugned order. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

raju